

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/640,980 08/14/2003		Lawrence B. Jansen	NA1.028	9232	
7590 04/05/2005			EXAMINER		
Timothy E. Siegel			NASSER, ROBERT L		
Suite 206 1868 Knapps A	llev	ART UNIT	PAPER NUMBER		
West Linn, OR		3736			

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary		Applicat	on No.	Applicant(s)				
		10/640,9	80	JANSEN ET AL.	(I)			
		Examine	r	Art Unit				
		Robert L.		3736				
Period fo	The MAILING DATE of this communication or Reply	n appears on th	e cover sheet with the c	orrespondence addi	ress			
THE I - Exter after - If the - If NO - Failu Any r	ORTENED STATUTORY PERIOD FOR RI MAILING DATE OF THIS COMMUNICATION of time may be available under the provisions of 37 CF SIX (6) MONTHS from the mailing date of this communication period for reply specified above is less than thirty (30) days, period for reply is specified above, the maximum statutory per to reply within the set or extended period for reply will, by seply received by the Office later than three months after the red patent term adjustment. See 37 CFR 1.704(b).	ON. FR 1.136(a). In no enn. a reply within the staeriod will apply and vistatute, cause the ap.	vent, however, may a reply be tin tutory minimum of thirty (30) day vill expire SIX (6) MONTHS from plication to become ABANDONE	nely filed s will be considered timely. the mailing date of this com D (35 U.S.C. § 133).	munication.			
Status					•			
1)	Responsive to communication(s) filed on _							
2a) <u></u> □	This action is FINAL . 2b) This action is non-final.							
3)[3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims			•				
4)🖂	Claim(s) 1-19 is/are pending in the applica	ation.						
	4a) Of the above claim(s) is/are withdrawn from consideration.							
5)) Claim(s) is/are allowed.							
6)□	Claim(s) is/are rejected.							
7)	Claim(s) is/are objected to.							
8)⊠	Claim(s) <u>1-19</u> are subject to restriction and	d/or election re	quirement.					
Applicati	on Papers							
9) 🗌 🤈	The specification is objected to by the Exa	miner.	•					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11)	The oath or declaration is objected to by th	e Examiner. N	ote the attached Office	Action or form PTC	D-152.			
Priority u	nder 35 U.S.C. § 119							
	Acknowledgment is made of a claim for for All b) Some * c) None of: 1. Certified copies of the priority docur	nents have be	en received.					
	2. Certified copies of the priority docur		• •		.			
	3. Copies of the certified copies of the application from the International Bu	•		ed in this National S	tage .			
* 5	See the attached detailed Office action for a	Ť	' ''	ed				
			mod doplod flot roddire					
Attachmen	t(s)			•				
1) D Notic	e of References Cited (PTO-892)		4) Interview Summary					
	e of Draftsperson's Patent Drawing Review (PTO-948		Paper No(s)/Mail Da 5) Notice of Informal F		152)			
	nation Disclosure Statement(s) (PTO-1449 or PTO/S r No(s)/Mail Date	D/U8)	6) Other:		104)			

Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-9, drawn to an indwelling analyte sensor, classified in class 600, subclass 345.

II. Claims 10-19, drawn to a method of making an indwelling analyte sensor,classified in class 29, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by a different process, such a process including attaching a membrane thereto.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Timothy Siegel on March 30, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Application/Control Number: 10/640,980 Page 3

Art Unit: 3736

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser Primary Examiner Art Unit 3736

RLN March 30, 2005

ROBERT L.